



Appeal Decision

Site visit made on 12 August 2022

by James Blackwell LLB (Hons) PgDip

an Inspector appointed by the Secretary of State

Decision date: 31st August 2022

Appeal Ref: APP/G1630/W/21/3288137

Land at Manor Farm, Stoke Orchard, Gloucestershire GL52 4RY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for permission in principle.
 - The appeal is made by Cotswold Oak Ltd against Tewkesbury Borough Council.
 - The application Ref 21/01011/PIP is dated 12 July 2021.
 - The development proposed is erection of up to 9 dwellings.
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Decision

1. The appeal is allowed and permission in principle is granted for the erection of up to 9 dwellings on Land at Manor Farm, Stoke Orchard, Gloucestershire GL52 4RY in accordance with the terms of the application, Ref 21/01011/PIP, dated 12 July 2021.

Preliminary Matters

2. I have removed reference to "infill" from the appellant's description of development, on account of my conclusions on this issue.
3. As an appeal against non-determination, the Council did not issue a decision. Nonetheless, the Council's statement sets out its proposed reasons for refusal, which have informed the reasoning in this appeal.
4. Since determination of the planning application, the 2019 iteration of the National Planning Policy Framework (Framework) has been superseded. I am satisfied that the updates to the Framework do not materially affect its content insofar as it is relevant to the main issues of this appeal. I have therefore determined this appeal with regard to the current version, published in July 2021.
5. The proposal is for permission in principle. Planning Practice Guidance (PPG) advises that this is an alternative way of obtaining planning permission for housing-led development. The permission in principle consent route has 2 stages: the first stage (or permission in principle stage) establishes whether a site is suitable in principle and the second stage ('Technical Details Consent') is when the detailed development proposals are assessed. This appeal relates to the first of these 2 stages.
6. The scope of the considerations for permission in principle is limited to location, land use and the amount of development permitted. All other matters are considered as part of a subsequent Technical Details Consent application if permission in principle is granted. I have determined the appeal accordingly.

Main Issue

7. In this context, the main issue is whether the site is suitable for residential development, having regard to its location, the proposed land use and the amount of development.

Reasons

8. The appeal site comprises an undeveloped field located on the outer edge of Stoke Orchard, which is a small residential village with approximately 330 homes. The village sits just east of the M5 motorway, and is broadly surrounded by open countryside, including Green Belt to the south. Whilst the site is slightly removed from the main built-up area of the village, there are residential and commercial properties to the north and south, and the motorway runs close to its western side. This means the site is at least partly enclosed by built development, and is therefore physically and spatially linked to the village.
9. Policies SP1 and SP2 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy (2011 – 2031) (JCS) set out the overarching settlement hierarchy and strategic housing objectives for the area, and seek to guide new housing to the most sustainable and accessible areas in the district. Stoke Orchard is referred to in a list of service villages within Tewkesbury, which are collectively required to deliver 880 new homes over the plan period. These policies therefore support the principle of new housing within the village.
10. Policy SD10 of the JCS sets out how these housing targets will be achieved within service villages. Given that the appeal site is neither allocated nor previously developed land, proposals for residential development in this location will be guided by criterion 4 of this policy. This says that housing development will only be permitted where “*it is infilling within the existing built up areas of [...] Tewkesbury Borough’s towns and villages*”. The supporting text describes infill as “*the development of an under-developed plot well related to existing built development*”. The appeal site is separated from the substantive built up area of the village by a notable area of open space to the east. Due to this separation, the site cannot legitimately be described as “*within*” the existing built up area of Stoke Orchard.
11. Nonetheless, the residential houses south of the site along Swan Lane do extend further west than the appeal site, as do the mixed residential and commercial properties immediately north. Whilst the proposal would invariably introduce some additional urbanisation (as the site currently comprises undeveloped land), this surrounding context of built form would ensure any encroachment into the countryside would not be excessive, nor unduly detrimental to the village’s rural character. The development would also be read in the context of the M5 motorway to the west of the site, which is a distinctly urbanising feature in itself. It is also worth highlighting that local services within the village are easily walkable from the site, and there is a bus stop just metres from the proposed access. The site’s accessibility is therefore good.
12. On account of these factors, I consider that the proposal would relate well to existing built development in the village, in both a physical and functional sense. In turn, whilst the proposal would conflict with Policy SD10 of the JCS,

the associated harm to the character of the village and its setting arising from this conflict would be limited.

13. As already acknowledged, the proposal would lead to a degree of encroachment into the countryside, and it would therefore also conflict with Policy SD6 of the JCS, and Policy LND2 of the Tewkesbury Borough Local Plan 2011 (TBLP). These seek to ensure new development safeguards the intrinsic beauty and special landscape character of the surrounding area. However, given the strong degree of physical and functional integration between the appeal site and the village, once again I find that any associated harm arising from these policy conflicts would only be minor.
14. Notwithstanding the above, I am satisfied that the proposal would align with Policy SD4 of the JCS, which seeks to ensure new development responds properly to the prevailing character and settlement pattern of the local area.

Emerging Local Plan

15. Whilst not yet adopted, the Pre-Submission Tewkesbury Borough Plan (2011 – 2031) (Emerging Plan) is at an advanced stage, and therefore carries weight in this appeal. As per the Emerging Plan, the appeal site is located just outside of the proposed settlement boundary for Stoke Orchard. Subject to certain criteria, Policies RES3 and RES4 of the Emerging Plan say that very small scale housing development may be permitted outside of defined settlement boundaries, where it is “*adjacent to the built up area of a rural settlement*”. Although Stoke Orchard is not classified as a “rural settlement” within the Emerging Plan (as it is a named service village), the criteria are still pertinent, given the plan’s underlying objectives of directing new housing to the most sustainable locations within the district. Moreover, given the appeal site’s close relationship with the village, I am satisfied that it can reasonably be considered “adjacent” to the village’s built up area.
16. To be “small scale”, Policy RES4 says a proposal should not “*have an adverse cumulative impact on the settlement having regard to other development permitted during the plan period; as a general rule no more than 5% growth or 10 dwellings, whichever is the lesser, will be allowed*”. Based on the evidence regarding other consented housing in and around Stoke Orchard, the proposal would comfortably fall within this threshold.
17. Given the close proximity of residential and commercial properties to the north and south of the site, the new housing could also assimilate effectively with the surrounding built form, without unduly interfering with the prevailing rural character of the village. As already mentioned, the M5 motorway also acts as an urbanising backdrop to the site, which would help limit the impact of any actual or perceived encroachment into the countryside. In turn, the development would complement the existing settlement pattern of the village, whilst also preserving its overarching rural character and setting. It would also preserve the Green Belt land to the south of the village, and would not introduce any coalescence between Stoke Orchard and other settlements. On account of these factors, the development would broadly align with the criteria for new housing outside of defined settlement limits, as set out in Policy RES4.
18. I therefore find that the principle of new housing within the proposed location would be consistent with the provisions of Policies RES3 and RES4 of the Emerging Plan. It would also be consistent with Policy RES5, which says any

edge of settlement development should respect the form of settlement and its landscape setting, and should not appear as unacceptable intrusion into the countryside. Given that the proposal would preserve the open space to the east of the site and the Green Belt to the south, it would also align with Policy LAN1 of the Emerging Plan, which seeks to protect these Special Landscape Areas.

Planning Balance

19. It is common ground that the Council cannot demonstrate a five-year supply of deliverable housing land and has failed to meet the Housing Delivery Test. Regardless of the extent of such shortfall, this means its policies relating to the delivery of housing are out of date. Paragraph 11(d)(ii) of the Framework is therefore engaged, which says planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Whilst the proposal would conflict with Policies SD6 and SD10 of the JCS, and LND2 of the TBLP, given that these policies are considered out of date, the weight attributed to these policy conflicts is therefore reduced.
20. Paragraph 60 of the Framework emphasises the need to significantly boost the supply of houses across the country, and paragraph 69 highlights the importance of small and medium sites in achieving this target. Reflecting these objectives, the proposal would contribute up to 9 new dwellings to the Council's housing supply, which would be a notable benefit of the scheme. The proposal would also provide other meaningful social and economic objectives, both during construction and once the development is occupied.
21. Bringing these factors together, and notwithstanding the policy conflicts highlighted above, I therefore find that the adverse impacts of the proposal would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. The presumption in favour of sustainable development therefore applies in this instance. In turn, I consider that the appeal site would be a suitable location for up to 9 dwellings, and permission in principle should be allowed.

Other Matters

22. In line my statutory duty under section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I have had special regard to the desirability of preserving the setting of a number of listed buildings near to the appeal site. However, given the intervening distance and degree of screening between the site and each of these buildings, I am satisfied that the development would not harm their settings.
23. Whilst concern has been raised with regard to highway safety, noise, archaeological issues and climate impact, these are all matters that would be addressed at the Technical Details Consent Stage. The appeal application only seeks to establish the principle of residential housing in the proposed location.
24. The PPG is clear that conditions cannot be attached to a grant of permission in principle, and its terms are limited to location, type of development and amount of development.

Conclusion

25. Whilst the proposal would conflict with certain policies within the development plan, the tilted balance is engaged in this instance. The presumption in favour of sustainable development therefore applies, and the appeal should be allowed.

James Blackwell

INSPECTOR